



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,010	10/19/2001	Takehito Ito	0020-4914P-SP	7105
2292	7590	09/12/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			GLASS, RUSSELL S	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	
			3626	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/982,010	Applicant(s) ITO ET AL.	
	Examiner Russell S. Glass	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

2. The abstract of the disclosure is objected to because it contains the legal phrase "means". Additionally, the abstract is objected to because it appears to be over 150 words in length. Correction is required. See MPEP § 608.01(b).

Claim Objections

3. Claim 2 is objected to because of the following informalities: biological is misspelled on page 2, line 18. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 recites the limitation "means for" numerous times throughout the claim. However, the examiner was unable to find any specific references to such "means for elements" within the originally filed specification. For example, Claim 1, lines 10 recites "means for detecting biological information" and the correlation that the examiner was able to find appeared at page 8, lines 12-15 of the specification, which is devoid of any structural element that uniquely corresponds to this particular "means". Additionally, the claims are generally narrative and indefinite, failing to conform with current U.S. practice.

It is respectfully submitted that if applicant intends to recite means-plus-function limitations under 35 U.S.C. 112, 6th ¶, applicant is requested to point out specific passages of the specification that provides a reference to each and every recitation of "means" elements in the claim (MPEP § 2181).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of

this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Jackson, (U.S. Patent Application Publication 2004/0078220).

8. As per claim 1, Jackson discloses:

A medical diagnosis system comprising at least one user terminal equipment, a center equipment located in a medical center for receiving and processing the medical information sent from said user terminal equipment, and at least one physician terminal equipment for communicating with said center equipment to exchange the medical information;

(a) said user terminal equipment comprising:

(1) means for detecting biological information of the user in the form of electric signals, (Jackson; FIGS. 2, 3a, 3b, 7; p.4, ¶ 0060-62);

(2) means for monitoring circumstances of detection, (Jackson; FIGS. 2, 3a, 3b, 7; p.4, ¶ 0060-62);

(3) means for sending user's medical information including the detected biological information to said center equipment, (Jackson; FIGS. 2, 3a, 3b, 7; p.4, ¶ 0060-62); and

(4) means for receiving medical information from the center equipment; (Jackson; FIGS. 2, 3a, 3b, 7; p.4, ¶ 0060-62);

(b) said center equipment comprising:

(1) first data storage means for storing medical treatment information about users and information about physicians, (Jackson; FIG. 7; p.5, ¶ 0064-67);

(2) data-receiving means for receiving said user's medical information sent from said user terminal equipment, (Jackson; p.5, ¶ 0070);

(3) data-analyzing means for analyzing said user's medical information received by said receiving means, (Jackson; p.5, ¶ 0072);

(4) means for producing a diagnostic result corresponding to the analyzed result of said user's medical information, (Jackson; p.5, ¶ 0071, 72);

(5) second data storage means for storing doctor's questions selectable according to the analyzed result, (Jackson; FIGS. 3a and 7; ¶ 0064, 65);

(6) reading-means for reading selected doctor's questions from said second data storage means, (Jackson; p. 2, ¶ 0018,19, 23; p.3, ¶ 0030);

(7) means for selecting at least one physician among said physicians stored in said first data storage means, (Jackson; p.5 and 6, ¶ 0074, 80, 82, 84); and

(8) means for communicating with said user terminal equipment and/or physician terminal equipment to send said medical information including said diagnostic result and said doctor's questions; (Jackson; claim 7; FIG. 7; p.4, ¶ 0055, 56, 59; p. 6, ¶ 81);

(c) said physician terminal equipment comprising:

(1) data-receiving means for receiving said medical information sent from said center equipment (Jackson; FIG. 7; Claims 1, 2, 7, 26, 36-39, 43), and

(2) data-transmitting means for sending medical information of the physician side to said center equipment (Jackson; FIG. 7; Claims 1, 2, 7, 26, 36-39, 43).

9. As per claim 2, Jackson discloses

A diagnostic processing method comprising the steps of

(a) analyzing user's medical information sent from a user terminal equipment

(Jackson; p. 5, ¶ 0069-71, claims 1-3, 9-11, 43), and

(b) carrying on diagnosis of the user who had been determined as being abnormal but requiring no emergency treatment, by use of a diagnostic result based on said biological information in combination with doctor's questions selected on the basis of said analyzed result (Jackson; p. 5, ¶ 0069-72, claims 1-3, 9-11, 43).

10. As per claim 3, Jackson discloses the diagnostic processing method according to claim 2, further comprising the steps of:

(a) analyzing user's medical information sent from a user terminal equipment to determine the health condition of the user categorized into three cases, (a) not particular, (b) abnormal but no need to emergency care, and (c) abnormal and need to emergency care (Jackson; FIGS. 3a and 3b; p. 5, ¶ 0072-74).

(b) sending the determined result to the user in case of the category (a) (Jackson; FIGS. 3a and 3b; p. 5, ¶ 0074), or

(c) sending doctor's questions determined on the basis of said analyzed results to the user to request answers to said doctor's questions in case of the category (b) (Jackson; FIGS. 3a and 3b; p. 5-6, ¶ 0071, 72, 76, 77, 80, 81), or

(d) sending a request for medical treatment to a suitable physician selected on the basis of said analyzed result in case of the category (c) (Jackson; FIGS. 3a and 3b; p. 5-6, ¶ 0073, 74, 77, 80, 81, 84);

(e) wherein, in case of the category (b), said method further including the steps of:

(1) analyzing received answers to said doctor's questions to determine the health condition of the user categorized into three cases, (a) not particular, (b) abnormal but no need to emergency care, and (c) abnormal and need to emergency care (Jackson; FIGS. 3a and 3b; p. 5, ¶ 0072-74); and

(2) sending the determined result along with health advice to the user in case of the category (a) (Jackson; FIGS. 3a and 3b; p. 5, ¶ 0074), or

(3) sending an advice of close examination to the user along with a message of introduction of a suitable physician selected on the basis of said determination in case of the category (b) (Jackson; FIGS. 3a and 3b; p. 5-6, ¶ 0071, 72, 76, 77, 80, 81);
or

(4) sending a request for medical treatment to a suitable physician selected on the basis of said determination in case of said category (c) (Jackson; claims 19, 20, 64; FIGS. 3a, 3b, 6; p. 5-6, ¶ 0073, 74, 77, 80, 81, 84).

Conclusion

The prior art made of record and not relied upon that is considered pertinent to applicant's disclosure is as follows: Tallman et al., Medical Network Management System and Process, (U.S. 5,471,382), issued on November 28, 1995; Iliff, Computerized Medical Advice System and Method Including Meta Function, (U.S.

5,711,297), issued on January 27, 1998; Kieval et al., Implantable Medical Device for Tracking Patient Cardiac Status, (U.S. 6,190,324), issued February 20, 2001; Iliff, Computerized Medical Diagnostic and Treatment Advice System Including Network Access, (Pub. No.: 2001/0029322), published on October 11, 2001; Victor, Method for Delivering Healthcare Services, (Pub. No.: 2002/0042724), published on April 11, 2002; Glodenberg, Virtual Doctor Interactive Cybernet System, (Pub. No.: 2002/006582), published on May 30, 2002; Riff et al., Medical Device Systems Implemented Network Scheme For Remote Patient Management, (Pub. No.: 2002/0082480), published on June 27, 2002; Argenbright et al., Patient Diagnosis Using Triage Protocols That Have Customized Messages at Exit Points, (Pub. No.: 2003/0208377) , published on November 6, 2003; Iliff, Authoring Language Translator, (U.S. 6,748,353), issued on June 8, 2004; Pestonik et al., Systems and Methods For Manipulating Medical Data Via a Decision Support System, (Pub. No.: 2004/0260666), published on December 23, 2004; Riff et al., Medical Device Systems Implemented Network Scheme for Remote Patient Management, (Pub. No.: 2005/0021370), published on January 27, 2005; Zayas, Jr., System and Method for Conducting a Physician-Patient Consultation, (U.S. 6,850,889), issued on February 1, 2005; Bayne, Method for Clinician House Calls Utilizing Portable Computing and Communications Equipment, (Pub. No.: 2005/0060198), published on March 17, 2005.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

Art Unit: 3626

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG *R.S.G.*
8/24/2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600